



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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TYRONE H. MASSEY,

Plaintiff,

- against -

CITY OF NEW YORK, et al.,

Defendants.  
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20-CV-7622 (LTS) (RWL)

**ORDER**

**ROBERT W. LEHRBURGER, United States Magistrate Judge.**

Plaintiff commenced this action on September 15, 2020; Defendants filed a motion to dismiss on January 26, 2021. The Court stayed the case on April 20, 2021, due to Plaintiff's indication that he was to have a competency hearing in his criminal matter. On April 29, 2021, Plaintiff filed an amended complaint. On May 18, 2021, Defendants informed the Court that an evaluation of Plaintiff in his criminal proceeding found him to be competent. Plaintiff's correspondence with the Court also indicates that he is rational and capable of prosecuting his claims, and understands the legal concepts involved. Plaintiff has expressed being overwhelmed, which is not surprising in as much as he has filed more than ten separate actions based on his conditions of or treatment during confinement. Plaintiff has requested appointment of pro bono counsel, but the Court cannot at this time say that his claims are "likely to be of substance" as required by *Hodge v. Police Officers*, 802 F.2d 58, 61-62 (2d Cir. 1986). Accordingly, (1) the stay of this case is LIFTED; (2) Plaintiff's request for pro bono counsel is denied without prejudice to renewal in the event any of his claims survive a motion to dismiss; (3) by **June 25, 2021**, defendants shall inform the Court how they wish to proceed with respect to their motion

to dismiss (i.e., withdraw it in light of the amended complaint; revise it in light of the amended complaint; or stand on it regardless of the amended complaint) and shall propose any relevant briefing schedule in that regard; (4) discovery shall be stayed pending determination of the motion to dismiss, if refiled or not withdrawn; (5) based on Plaintiff's confirmed representation that he lost his legal papers to a fire incident, defendants shall, by **June 25, 2021**, send to Plaintiff all pleadings and court orders issued in this case to date.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Lehrburger', with a long horizontal stroke extending to the right.

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ROBERT W. LEHRBURGER  
UNITED STATES MAGISTRATE JUDGE

Dated: June 11, 2021  
New York, New York

Copies transmitted this date to all counsel of record. The Clerk of Court is respectfully requested to mail a copy of this Order to the pro se Plaintiff.